



U.S. Department of Justice

United States Attorney
Eastern District of New York

NMA:JD
F.#2011R02050

271 Cadman Plaza East
Brooklyn, New York 11201

July 23, 2012

By Hand Delivery and ECF

The Honorable Carol B. Amon
Chief United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Vincent Badalamenti
Criminal Docket No. 12-050 (S-2)(CBA)

Dear Chief Judge Amon:

The defendant is scheduled to be sentenced on July 25, 2012. The government respectfully submits this letter to clarify one assertion contained in the defendant's July 11, 2012 sentencing submission. In his submission, the defendant stated:

"No other criminal conduct is alleged to have been committed by Mr. Badalamenti and indeed, at paragraph 26, the probation report indicates that 'the government advised that *they are not prepared to prove by preponderance of the evidence any criminal acts, charged or uncharged, committed by the defendants.*'"

(Def. Mem. at 4, fn 7)(emphasis in original). In fact, the cited paragraph reads, in its entirety:

"The Government advised that they are not prepared to prove by preponderance of the evidence any other criminal acts, charged or uncharged, committed by the defendants."

(PSR ¶ 26) (emphasis added). This statement conforms with the terms of the plea agreement entered into between the parties, in which the government agreed to make no motion for an upward departure under the United States Sentencing Guidelines ("Guidelines" or "U.S.S.G.") based upon information then known to the government. It is not, as Badalamenti contends, a statement

by the government that criminal conduct committed by Badalamenti and his co-defendants could not be proven by the government at trial.

The government respectfully submits that based upon the defendant's guilty plea and the evidence properly before the Court, the Court should impose a sentence within the applicable Guidelines range of 21 to 27 months' incarceration.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s/
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cc: Clerk of the Court (CBA)
Ronald P. Fischetti, Esq. (By ECF)
USPO Roberta Houlton (By Hand)